

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 220

SPONSOR: Committee on Regulated Industries

SUBJECT: Florida Engineers Management Corporation

DATE: March 29, 2000 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Guthrie</u>	<u>RI</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill:

- Prevents the scheduled repeal of the Florida Engineers Management Corporation Act, preserving the Corporation and the current system under which it provides administrative, investigative, and prosecutorial services to the Board of Professional Engineers (Board).
- Subjects the Corporation’s board of directors and staff to the travel and per diem provisions of s. 112.061, F.S.
- Requires that the Corporation pay the Department of Business and Professional Regulation (Department) for specified costs associated with the regulatory services.
- Requires the Corporation to develop, in conjunction with the Department, performance standards and measurable outcomes, which the Board is to adopt by rule.
- Transfers to the Corporation the duties of the Department relating to issuance, reissuance, and renewal of licenses, certifications, and temporary registrations and to purchase of the licensure examination.
- Requires the Board to provide by rule the security procedures, which the Corporation is to follow to ensure the security of licensure examinations.
- Establishes and phases in staggered terms for the Corporation’s Board of Directors.

The bill substantially amends ss. 471.038, 471.011, 471.015, 471.017, 471.021, 471.023, and 471.033 of the Florida Statutes.

II. Present Situation:

Section 471.038, F.S., was enacted in 1997 to change the way administrative, investigative, and prosecutorial services are provided to the Board of Professional Engineers (the Board). The section creates the Florida Engineers Management Corporation (the Corporation) and moves the responsibility for providing these services from the Department of Business and Professional Regulation (Department) to the Corporation. The Corporation processes applications for licenses, the administers license examinations, processes and investigates complaints against licensees, and

presents administrative complaints to the Board for disciplinary action. The Corporation is a publicly-funded, not-for-profit corporation. Its budget for its first full year of operation is \$2.17 million.

The Corporation serves approximately 27,000 licensed engineers with 13 full-time staff. The Department contracts with the Corporation for the regulatory services and employs a full-time contract manager to provide active supervision and to determine compliance with contract requirements. The Department retains responsibility for emergency orders and prosecuting unlicensed practice cases.

Section 471.038, F.S., provides for its automatic repeal on October 1, 2000, and requires the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) to conduct a performance audit of the Corporation for the period of January 1, 1998, through January 1, 2000, with the Legislature to review the performance audit report and the effect of the statute in the 2000 Regular Session.

OPPAGA found that the Corporation processed more complaints in a more timely manner than the Department. In the Corporation's first full year of operation, it received 100 complaints, a 22% increase over the previous fiscal year. The Corporation's timeliness in investigating these cases and reporting to the probable cause panel improved over the Department's, with 40% of complaints reported to the probable cause panel within six months versus 30% for the Department in the prior year.

The Corporation also established a system for monitoring compliance with disciplinary orders, which was lacking under the Department. The Corporation identified 83 cases in which licensees were not in compliance with disciplinary orders, with 48 cases determined to be legally sufficient for further discipline. In the prior year, the Department had pursued two such cases.

Regulatory costs have increased, however. In comparing the costs for the Corporation in fiscal year 1998-99, a license renewal year when costs are higher, with the Department's last license renewal year, costs for the Corporation were 11% higher. Additionally, the Department spent \$80,000 to administer the contract, resulting in an overall cost increase of \$247,467, or 16%.

III. Effect of Proposed Changes:

The bill abrogates the scheduled repeal of the Florida Engineers Management Corporation Act, preserving the Corporation and the current method of providing administrative, investigative, and prosecutorial services to the Board of Professional Engineers.

The bill subjects the Corporation's board of directors and staff to the travel and per diem provisions of s. 112.061, F.S. It also provides that the Corporation may make only prudent expenditures directly related to the responsibilities of the Board and in accordance with the contract.

The bill establishes and phases in staggered terms of service for the Corporation's Board of Directors. All initial appointments expire on October 31, 2000, and current members may be appointed only to one additional term. Two members are to be appointed for two years, three

members are to be appointed for three years, and two members are to be appointed for four years. One of the laypersons must be appointed to a 3-year term and the other layperson must be appointed to a 4-year term. Thereafter, all appointments are for 4-year terms.

The bill requires the Corporation to pay the Department for specified costs associated with regulatory services the Department provides. Specifically, the Corporation must pay all cost of representation by Board counsel, all costs associated with the contract administrator, and all costs associated with the Division of Administrative Hearings.

The Corporation is required to develop, in conjunction with the Department, performance standards and measurable outcomes, which the Board must adopt by rule.

The bill also provides that all meetings of the Corporation's board of directors are public meetings subject to the public meetings law. Although section 471.038, F.S., expressly provides that the Corporation's records are public records and are subject to the public records law, there is no such express provision presently for public board meetings. Despite this omission, the Corporation's legal counsel has expressed the opinion that meetings of the board of directors are subject to public meetings law, and the current practice is to give notice of the meetings and to make them open to the public.

The Corporation is made the sole repository for all records of the Board, including all historical information and records. The Corporation must maintain these records in accordance with the guidelines of the Department of State.

The Board is to provide by rule the security procedures that the Corporation must follow to ensure the security of licensure examinations.

The bill deletes obsolete language requiring the performance audit of the Corporation for the period of January 1, 1998, through January 1, 2000, by the Office of Program Policy Analysis and Governmental Accountability. The bill provides for an annual audit of records by a certified public accountant, which is subject to review by the Department and the Auditor General.

The bill amends ss. 471.011, 471.015, 471.017, 471.021, 471.023, and 471.033, F.S., to transfer to the Corporation the duties of the Department relating to issuance, reissuance, and renewal of licenses, certifications, and temporary registrations and to purchase of the licensure examination.

The bill takes effect July 1, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The bill expressly provides in section 471.038, F.S., that meetings of the board of directors of the Florida Engineers Management Corporation are public meetings.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill continues the operation of the Florida Engineers Management Corporation, costing approximately 16% more than under the Department, but achieving more and more timely results in the number of complaints investigated and filed.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.